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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/030,237	05/23/2002	John Frederick Kemp	HCM-019US	5866
959	7590	12/29/2003	EXAMINER	
LAHIVE & COCKFIELD, LLP. 28 STATE STREET BOSTON, MA 02109			NGUYEN, HOANG M	
			ART UNIT	PAPER NUMBER
			3748	

DATE MAILED: 12/29/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/030,237

Applicant(s)

KEMP, JOHN FREDERICK

Examiner

Hoang M Nguyen

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 and 17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 11-15 and 17 is/are rejected.
- 7) ☒ Claim(s) 9-10 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other:

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Applicant's amendment dated October 06, 2003, has been fully considered.

Applicant has argued that the applied reference, Scott, does not float on water. The Examiner agrees and the rejection based on Scott has been withdrawn. However, a new ground of rejection based on U.S. 3685291 (Fadden, Jr.) has been made.

Applicant is reminded that reference numeral 15 is missing from the drawings.

Claims 9-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 9, the phrase "a pair of tapering side plates" is doubly recited because "side plates" are already recited in claim 1. Please change the language to "said side plates are tapering" or similar language to avoid any possible rejection.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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Claims 1-7, 11, 13, 14-15, 17, are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. 3685291 (Fadden, Jr.).

Fadden Jr. discloses a chamber floating on water comprising vertical side plates 10 forming a chamber with inlet 12, and exhaust through exhaust manifold 66, the Examiner is taking the position that the side walls defining chambers 50 are the baffles as claimed because said walls are static and used to direct fluid to the manifold. Regarding claim 2, Fadden Jr. discloses on column 5, lines 35-52 the concept of forcing compressed air into manifold 66. Regarding claims 4-6, the chamber in Fadden Jr. is elongate and inherently has top wall, bottom wall. Regarding claims 7, 13-14, the walls of chambers 50 are located near the exhaust manifold.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8, 12, are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S.

3685291 (Fadden, Jr.). Fadden, Jr. discloses all the claimed subject matter as set forth above in the rejection of claim 1, but does not disclose that the baffle is taper the side plates are adjustable. However, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the chamber to include a tapering baffle and the side plates being adjustable for ease of adjusting the chamber volume and to control the buoyancy of the chamber.

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Claims 9-10 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Nguyen whose telephone number is (703) 308-3477. The examiner can normally be reached on Monday--Thursday from 7:30 AM to 6:00 PM.

Any inquiry concerning any general questions regarding patent examining policies and procedures should be directed to Patent Assistance Center (PAC) at 800-PTO-9199 or (703)-308-HELP (703)-308-4357, or Customer Service of TC 3700 at (703) 306-5648.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Denion, can be reached on (703)-308-2623. The fax phone number for the Examiner is (703) 746-4559.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0861.

A handwritten signature in black ink, appearing to be 'H. Nguyen', followed by the date '12/23/03' written in a similar cursive style.

HOANG NGUYEN
PRIMARY EXAMINER
ART UNIT 3748

Hoang Minh Nguyen
December 23, 2003